

Seibel, 3 (42)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEYBANK NATIONAL ASSOCIATION,

Plaintiff,

-against-

BHMD BY ON CHEVRON INC. d/b/a
BNAI YISROEL and MORDECHAI GOLD
a/k/a MORDEHAI GOLD,

Defendants.

Civ. No.

~~PROPOSED~~ ORDER OF
ATTACHMENT WITHOUT
NOTICE

19 CV 11482

**TO: THE U.S. MARSHAL FOR THE SOUTHERN
DISTRICT OF NEW YORK and/or
THE SHERIFF OF ANY COUNTY IN THE
STATE OF NEW YORK,
THE PLAINTIFF NAMED ABOVE,
THE DEFENDANT NAMED ABOVE, AND
ANY GARNISHEE SERVED HERewith**

JUDGE SEIBEL

On the emergency application, without notice, by Plaintiff KeyBank National Association (“KeyBank”), for an order of attachment pursuant to Federal Rule of Civil Procedure 64 and Article 62 of the New York Civil Practice Law and Rules against the property of defendants BHMD BY On Chevron Inc d/b/a Bnai Yisroel (“BHMD”) and Mordechai Gold a/k/a Mordehai Gold (“Gold” and collectively with BHMD, “Defendants”) in an action commenced in this Court;

The Court having considered the Verified Complaint of KeyBank; the Declaration of Deepak Kapoor, dated December 14, 2019; the Declaration of Emily Mathieu, dated December 16, 2019; and the Memorandum of Law in Support of the KeyBank’s Application For an Order of Attachment and Interim Injunctive Relief; along with all exhibits and attachments to each, wherein it appears that there is a cause of action for a money judgment in favor of KeyBank and

against Defendants for a sum of not less than \$950,500, plus additional pre- and post-judgment interest; that it is probable that KeyBank will succeed on its claims against Defendants; that there is sufficient grounds for attachment pursuant to C.P.L.R. § 6201(3) in that Defendants have acted with an intent to defraud KeyBank and/or frustrate the enforcement of a judgment that might be rendered in KeyBank's favor, and have assigned, disposed of, encumbered or secreted property, or are about to do any of these acts; and that Defendants have no counterclaims for damages against KeyBank.

NOW, THEREFORE,

IT IS HEREBY ORDERED that KeyBank's application for an Order of Attachment is granted, effective, unless earlier vacated, through the time of the entry of an execution or turn-over order pursuant to Rule 69 of the Federal Rules of Civil Procedure and C.P.L.R. Article 52 following entry of a judgment in favor of KeyBank.

IT IS FURTHER ORDERED that the amount to be secured by this Order of Attachment, inclusive of probable interest, costs, Marshal's fees, and expenses, shall be

\$630,400 -
\$950,500

IT IS FURTHER ORDERED that the U.S. Marshal for the Southern District of New York ("Marshal"), and/or the Sheriff of any county of the State of New York ("Sheriff") shall levy within its jurisdiction, at any time before final judgment, upon such real and personal property in which Defendants, jointly or separately, have an interest, and upon such debts owing to Defendants, jointly or separately, as will secure and satisfy the sum of \$630,400 ~~\$950,500~~, plus additional pre- and post-judgment interest, including any tangible and intangible property of

Defendants which could be assigned or transferred, whether it consists of a present or future right or interest and whether or not it is vested, including any intangible contract rights, as provided for in C.P.L.R. § 5201(b), wherever located, whether within or without the State of New York, including but not limited to accounts in the name of either or both Defendants at the financial institutions named in the annexed Appendix A, which is hereby incorporated into and made part of this Order of Attachment.

IT IS FURTHER ORDERED that in order to provide sufficient service and notice of this order, service of a copy of this order and of all related and supporting papers shall be deemed good and sufficient service if made as follows: by personal service or overnight courier to Defendants on or before December 17, 2019, at their address of 1 Preshburg Boulevard, Unit 30, Kiryas Joel, New York, 10950.

IT IS FURTHER ORDERED that KeyBank's undertaking is fixed in the sum of \$ 10,000.00, conditioned that KeyBank shall pay to Defendants an amount not exceeding \$ 5000.00 for legal costs and damages which may be sustained by reason of attachment, and up to and not exceeding \$ 1000.00 to the Marshal and/or Sheriff for allowable fees, if Defendant recovers judgment or if it is decided that KeyBank is not entitled to an attachment of the property of Defendants.

IT IS FURTHER ORDERED that KeyBank shall: (a) move within 5 days after the levy upon Defendants, or upon such other date as the Court may set, for an order confirming this Order of Attachment; (b) give notice of the motion to confirm to Defendants by serving by hand delivery and/or overnight courier on Defendants at the address listed above; (c) give notice of the motion to confirm by hand delivery or overnight mail to any other garnishee(s) that have

submitted a statement pursuant to C.P.L.R. 6219 disclosing that they are or may be in possession of property or debts subject to this Order of Attachment.

IT IS FURTHER ORDERED that Defendants, their agents, subdivisions, servants, officers, employees, and attorneys, and all persons in possession of the property and/or debts described above, and all persons acting in concert or participation with the foregoing, and all persons receiving actual notice of this Order of Attachment by personal service or otherwise, are hereby **prohibited** until further order of this Court from selling, assigning, transferring, paying over to any person other than the Marshal and/or Sheriff, interfering with, otherwise disposing of, or acting in any other way affecting the value of such property of debt or directing or allowing any other person to do so, except that it is provided that nothing herein shall attach or restrain any property beyond those properties with an aggregate value sufficient to secure a sum

\$630,400
of \$950,500.

Date: 12/16/14

So Ordered

Cathy Seibel

United States District Judge

APPENDIX A

<u>NAME OF FINANCIAL INSTITUTION</u>	<u>ACCOUNT HOLDER</u>	<u>ACCOUNT NUMBER</u> (Where Available)
JPMorgan Chase Bank	BHMD BY On Chevron Inc	
NorthEast Community Bank	BHMD BY On Chevron Inc	
NorthEast Community Bank	Mordechai Gold	
TrustCo Bank	BHMD BY On Chevron Inc	3290DDA00000000323011003429
TrustCo Bank	Mordechai Gold	34045358
Wells Fargo Bank, NA	TD Ameritrade Clearing, Inc. For Credit Of: BHMD BY On Chevron Inc	4123214561